

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

July 24, 2007

DIVISION ONE

Court convened at 9:00 a.m.

Present: Mallano, Acting P.J., Vogel (Miriam A.), J., Rothschild, J., Jackson, J.
(Assigned) and S. Stahl, Deputy Clerk.

Each of the following:

B190213 People v. Harris
B190994 People v. Santistevan
B191219 People v. Alejo
B191732 People v. Parker
B192021 People v. Corey
B192554 People v. Soto
B192970 People v. Francisco H.
B193476 People v. Alvarado
B194154 People v. Joseph R.
B195529 People v. Fuller, Jr.
B195693 People v. Muse
B196469 People v. Sevillano
B188429 Koefoed v. Camejo
B195115 DCFS v. Ernesto M.
B197003 DCFS v. Rosa P.

Argument waived, cause submitted.

DIVISION ONE (continued)

B193019 Preciado
 v.
 Casa Colina Hospital for Rehabilitative Medicine

Merits:
Argued by Alan B. Newman for appellant and by Anne E. Jollay for respondent. Cause submitted.

B194155 Los Angeles County, D.C.S.
 v.
 Danielle O.
 Dante L.

Merits:
Argued by Michael Salazar for appellant Danielle O. and by Kimberly Knill for respondent Dante L. County Counsel waived argument for respondent DCFS . Cause submitted.

B190008 People
 v.
 Gordon

Merits:
Argued by Meredith Fahn for appellant and by Roberta L. Davis, Deputy Attorney General, for respondent. Cause submitted.

B192348 People
 v.
 Casas

Merits:
Argued by Maxine Weksler for appellant and by Colleen Tiedemann, Deputy Attorney General, for respondent. Cause submitted.

DIVISION ONE (continued)

B191395 People
 v.
 Delgadillo

Merits:

Argued by Michael R. Johnsen, Deputy Attorney General, for respondent and no appearance for appellant. Cause submitted.

Rothschild, J. leaves the bench.

B190222 People
 v.
 Gonzalez

Merits:

Argued by Stephen L. Bucklin for appellant and by David A. Voet, Deputy Attorney General, for respondent. Cause submitted.

Rothschild, J. returns to the bench.

Mallano, J. leaves the bench.

B191350 Martin Cadillac Company, Inc.
 v.
 Pierson et al.

Merits:

Argued by Thomas H. Htchinson for appellant and by Lucy H. Mekhael for respondents. Cause submitted.

Mallano, J. returns to the bench.

DIVISION ONE (continued)

B189489 People
 v.
 Harrell

Appearances:

No appearance for appellant and Attorney General waived argument for respondent. Argument waived, cause submitted.

Vogel, J. leaves the bench.

B183910 Vrcic
B184910 v.
B189915 Vrcic

Merits:

Argued by Robert S. Gerstein for appellants and by Casey A. Olsen for respondent. Both parties are directed to file letter briefs within 10 days no longer than 6 pages. Submission deferred until August 3, 2007.

B188703 Verzemnieks
 v.
 Cummings

Merits:

Argued by Gary J. Cohen for appellant and by Fred Silberberg for respondent. Cause submitted.

Vogel, J. returns to the bench.

Rothschild, J. leaves the bench.

DIVISION ONE (continued)

B190149 Daily
 v.
 Racine et al.

Merits:

Argued by Robert E. Racine for respondents and by Karen Daily, appellant in propria persona. Cause submitted.

Vogel, J. leaves the bench.

Rothschild, J. returns to the bench.

B195548 Los Angeles County, D.C.S.
 v.
 Celina M. and Raymond S., Sr.

B197499 In re Celina M. & Raymond S., Sr.
B197606 on
 Habeas Corpus

Merits:

Argued by Michael Salazar for appellant/petitioner Celina M.; by Joseph D. MacKenzie for appellant/petitioner Raymond S., Sr. and by O. Raquel Ramirez, Deputy County Counsel, for respondent. Cause submitted.

Vogel, J. returns to the bench.

Rothschild, J. leaves the bench.

July 24, 2007 (Continued)

DIVISION ONE (continued)

B189031 Estrada et al.
v.
FedEx Ground Packages System, Inc.

Merits:
Argued by Walter Dellinger for appellant and by Lynn R. Farris for
appellants. Cause submitted.

Mallano, J. leaves the bench.

Rothschild, J. returns to the bench.

B188175 Shelter Management Corporation et al.
v.
Haven for Affordable Housing, Inc. et al.

Merits:
Argued by Gary L. Holmes for appellant Shelter Management Corp. and by
Dawn M. Coulson for respondents. Cause submitted.

Court adjourned.

DIVISION TWO

B185778 Hild
v.
Southern California Edison Company

Filed order modifying opinion. (No change in the judgment)

DIVISION THREE

B188432 Archdale, et al. (Certified for Publication)

v.

American International Specialty Lines Insurance Company, et al.

As to plaintiffs Archdale, the judgment is affirmed as to the first and third causes of action in the complaint but is reversed as to the second cause of action. As to the plaintiff Godinez, the judgment is affirmed in its entirety. Upon remand, the trial court shall conduct such further proceedings as may be appropriate and not inconsistent with the views expressed herein. Each of the parties shall bear their own costs on appeal.

Croskey, J.

We concur: Klein, P.J.
Kitching, J.

B195662 Los Angeles County, D.C.S. (Not for Publication)

v.

Alicia R.

The final order of the juvenile court from which Mother has appealed is affirmed.

Croskey, J.

We concur: Klein, P.J.
Kitching, J.

DIVISION THREE (continued)

B192864 Soltani (Not for Publication)

v.

California Department of Health Services

The judgment is affirmed. The Department shall recover its costs on appeal.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

B182249 Dent (Not for Publication)

v.

Farmers Insurance Group of Companies, et al.

The judgment is reversed and remanded to the trial court for further proceedings in connection with the breach of contract cause of action only. The judgment in favor of Dent on the fraud causes of action is reversed, and the trial court is directed to enter judgment in Farmer's favor on those causes of action. The judgment on the breach of the implied covenant of good faith and fair dealing cause of action is affirmed. All parties are to bear their own costs on appeal.

Aldrich, J.

We concur: Croskey, Acting P.J.
 Kitching, J.

July 24, 2007 (Continued)

DIVISION THREE (continued)

B193345 Gliane (Not for Publication)

V.

Long Beach Unified School District, et al.

The judgment is reversed and remanded. The trial court is directed to enter a new and different judgment in favor of MJ consistent with this opinion. MJ is awarded costs on appeal.

Kitching, J.

We concur: Klein, P.J.
Croskey, J.

B190538 People
 v.
 Kenneth Moore

Filed order granting petition for rehearing.

DIVISION FOUR

B191280 People (Not for Publication)

V.

Hua

The judgment is affirmed.

Suzukawa, J.

We concur: Epstein, P.J.
Willhite, J.

July 24, 2007 (Continued)

DIVISION FOUR (continued)

B189743 People (Not for Publication)

v.
Akiyoshi

The restitution order is modified. Defendant is ordered to pay restitution in the amount of \$30, 814. In all other respects, the judgment is affirmed.

Willhite, J.

We concur: Epstein, P.J.
Manella, J.

B189924 People (Not for Publication)

v.
Houston

The judgment is affirmed.

Suzukawa, J.

We concur: Epstein, P.J.
Manella, J.

B194250 Los Angeles County, D.C.S. (Not for Publication)

V.
Billy H.

The order of the juvenile court granting the section 388 petition as to M. is affirmed.

Suzukawa, J.

We concur: Epstein, P.J.
Manella, J.

July 24, 2007 (Continued)

DIVISION FOUR (continued)

B191472 People (Not for Publication)

V.

Field

The conviction for evading a peace officer in count 5 (Veh. Code, §2800.2) is reversed and the concurrent sentence of 25 years to life imposed for that count is vacated. The clerk of the court is directed to modify the abstract of judgment accordingly and to forward a copy of the corrected abstract to the Department of Corrections. In all other respects, the judgment is affirmed.

Suzukawa, J.

We concur: Epstein, P.J.

Willhite, J.

B198584 Stacy F. (Not for Publication)

V.

Superior Court, Los Angeles County
(DCFS, r.p.i.)

The petition is dismissed.

Manella, J.

We concur: Epstein. P.J.

Willhite, J.

July 24, 2007 (Continued)

DIVISION FIVE

B193705 People (Not for Publication)
v.
David Bachtel

The judgment is affirmed.

Mosk, J.

We concur: Armstrong, Acting P.J.
 Kriegler, J.

B191719 People (Not for Publication)
v.
Keli P.

The wardship order is affirmed.

Turner, P.J.

We concur: Armstrong, J.
 Mosk, J.

B192862 Societe Civile Succession Richard Guino., (Certified for Publication)
v.
Redstar Corporation, et al.

The judgment is reversed and the matter remanded to the trial court to enforce the French judgment in the amount of 3,030,000 French francs and to conduct further proceedings so as to enter a California judgment in the United State dollar equivalent of 3,-3-,000 French francs. Plaintiffs are awarded costs.

Mosk, J.

We concur: Turner, P.J.
 Armstrong, J.

July 24, 2007 (Continued)

DIVISION FIVE (continued)

B196427 People (Not for Publication)

V.

Raul Gamera

The judgment is affirmed.

Kriegler, J.

We concur: Turner, P.J.
 Armstrong, J.

B193876 Taft Corporation et al., (Not for Publication)

V.

Bernard Lax, et al.

The judgment is affirmed. Cross-defendants, Bernard Lax and Lynda Lax, are to recover their costs on appeal jointly and severally from cross-complainants, Taft Corporation, Kamyar Lashgari, and Benedict Canyon Villa, LLC.

Turner, P.J.

We concur: Mosk, J.
Kriegler, J.

B190640 People (Not for Publication)

V.

John Salazar

The judgment is affirmed.

Kriegler, J.

We concur: Turner, P.J.
 Armstrong, J.

DIVISION FIVE (continued)

B194492 Devadatt Mishal, et al., (Not for Publication)
 v.
 Venus Capital Management, Inc., et al.

The order denying the motion to compel arbitration is affirmed. Plaintiffs, Devadatt Mishal and Surekha Mishal, shall recover their costs on appeal jointly and severally from defendants, Venus Capital management, Inc. and Vikas Mehrotra.

Turner, P.J.

We concur: Armstrong, J.
 Kriegler, J.

B192388 People (Not for Publication)
 v.
 Darryl B. Jefferson

The one-year enhancement imposed pursuant to section 667.5, subdivision (b) based on defendant's prior conviction in case No. BA186555 is reversed. The finding that defendant served a prior prison term pursuant to section 667.5, subdivision (b) in case GA044009 is reversed and remanded for further proceedings on the allegation. In all other respects, the judgment is affirmed.

Kriegler, J.

We concur: Turner, P.J.
 Mosk, J.

DIVISION FIVE (continued)

B189734 Scottman D. Wall (Not for Publication)

v.

Granville Towers Homeowners Assoc.

The judgment is affirmed. Plaintiff is awarded costs on appeal.

Kriegler, J.

We concur: Turner, P.J.

 Mosk, J.

B190680 Jose Luis Mendoza (Not for Publication)

v.

Daniel Mellinkoff et al.

The judgment is affirmed. Respondent(s) to recover costs.

Armstrong, J.

We concur: Turner, P.J.

 Mosk, J.

B191442 Cao Ton Not for Publication)

v.

Jocette Salveron et al.

The judgment is affirmed. Respondent(s) to recover costs.

Armstrong, Acting P.J.

We concur: Mosk, J.

 Kriegler, J.

DIVISION FIVE (continued)

B199761 Albert Angel Amaya (Not for Publication)
 v.
 Superior Court, Los Angeles County
 (The People, r.p.i.)

A peremptory writ of mandate shall issue directing respondent court to vacate its order of June 4, 2007, denying defendant's motion to dismiss pursuant to section 1382, and enter a new and different order granting the motion.

Armstrong, J.

We concur: Turner, P.J.
 Kriegler, J.

B181373 People
 v.
 Ricardo Guevara

In light of the United States Supreme Court's remand of this matter to this court on 2-20-07, the remittitur issued on 8-17-06 and the opinion filed 5-18-06 are vacated.

B181373 People (Not for Publication)
 v.
 Ricardo Guevara

The judgment is affirmed.

Armstrong, Acting P.J.

We concur: Mosk, J.
 Kriegler, J.

DIVISION FIVE (continued)

B197915 Gina D. et al., (Not for Publication)
v.
Superior Court, Los Angeles County
(D.C.F.S., r.p.i.)

The parents' petitions for extraordinary writ (Cal. Rules of Court, rule 8.452) are denied. The mandate petitions challenging the juvenile court's placement and visitation orders are dismissed as moot. Pursuant to California Rules of Court, rule 8.2364(B)(3), this opinion is made final forthwith as to this court.

Armstrong, J.

We concur: Turner, P.J.
Mosk, J.

DIVISION SIX

B195467 Santa Barbara Co. Child Welfare Services (Not for Publication)
v.
Frederick B., et al.

The order terminating parental rights is reversed. The juvenile court is directed to ensure that proper notice is given under the ICWA. CWS shall file all required documentation for the court's inspection, including all responses to the notice. If, after proper notice, a tribe claims S.B. is an Indian child, the court shall proceed under the provisions of the ICWA. If no tribe intervenes, the order terminating parental rights shall be reinstated.

Perren, J.

We concur: Yegan, Acting P.J.
Coffee, J.

July 24, 2007 (Continued)

DIVISION SIX (continued)

B193666 People (Certified for Publication)
v.
Christian G.

The judgment (order of commitment) is affirmed.

Yegan, J

We concur: Gilbert, P.J.
Perren, J.

DIVISION SEVEN

B188985	Gardner v. Allstate Insurance Co.	(Not for Publication)
B188986	Fine v. Safeco Insurance Co.	
B188987	Luscombe-Schwab v. State Farm General Insurance Co.	

The judgment is affirmed. Respondent to recover costs.

Zelon, J.

We concur: Johnson, Acting P.J.
Woods, J.

B190498 Los Angeles County, D.C.S. (Not for Publication)
v.
Bryce H. et al.,

The judgment is affirmed.

Zelon, J.

We concur: Perluss, P.J.
Woods, J.

July 24, 2007 (Continued)

DIVISION SEVEN (continued)

B189119 People (Not for Publication)

V.

Penarojas

The judgment is affirmed.

Zelon, J.

We concur: Johnson, Acting P.J.
 Woods, J.

DIVISION EIGHT

B188265 9901 Alameda, LLC, (Not for Publication)

V.

Shama, LLC

The judgment is reversed, and the matter is remanded for further proceedings consistent with this decision. Plaintiff shall recover costs.

Cooper, P.J.

We concur: Rubin, J.
Flier, J.

B168998 People (Not for Publication)

V.

Nino & Torres

For the reasons set forth above, the judgment is reversed.

Rubin, J.

We concur: Cooper, P.J.
Flier, J.

July 24, 2007 (Continued)

DIVISION EIGHT (continued)

B183655 People (Not for Publication)
v.
Ralph M.,

The order sustaining the petition is reversed.

Flier, J.

We concur: Rubin, Acting P.J.
Boland, J.

B182880 Christoff
v.
Nestle USA, Inc.,

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)